

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

**REGULAR MEETING**

**9:00 A.M.**

**APRIL 16, 2008**

**PRESENT:**

<b>COMMISSIONERS:</b>	<b>Bob Colven, Chairman</b>	<b>Brad Mitzelfelt, Alternate</b>
	<b>Kimberly Cox</b>	<b>Mark Nuaimi</b>
	<b>James V. Curatalo, Alternate</b>	<b>Richard P. Pearson</b>
	<b>Larry McCallon</b>	<b>Diane Williams, Alternate</b>

**STAFF:**

**Kathleen Rollings-McDonald, Executive Officer**  
**Samuel Martinez, LAFCO Analyst**  
**Michael Tuerpe, LAFCO Analyst**  
**Anna Raef, Clerk to the Commission**  
**Rebecca Lowery, Deputy Clerk to the Commission**

**ABSENT:**

**COMMISSIONERS:** **Paul Biane**  
**Dennis Hansberger, Vice Chairman**

**CALL TO ORDER – FLAG SALUTE – 9:14 A.M.**

Chairman Colven calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Chairman Colven requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

**CHANGE IN ORDER OF BUSINESS:**

Chairman Colven directs a change in order of business, postponing Items 1 and 2 until such time as the County Board of Supervisors Commission member is present.

**APPROVAL OF MINUTES FOR REGULAR MEETING OF MARCH 19, 2008**

Chairman Colven calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Pearson moves approval of the minutes as presented, seconded by Commissioner McCallon. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane, Hansberger.

**CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS**

LAFCO considers the items listed under its consent calendar. The consent calendar consists of:

ITEM 4.           Approval of Executive Officer's Expense Report

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

- ITEM 5. Ratify Payments as Reconciled for Month of March 2008 and Note Cash Receipts
- ITEM 6. A. Consideration of: (1) CEQA Statutory Exemption for LAFCO 3090; and (2) LAFCO 3090 – Sphere of Influence Review for City of Chino (Expansion/Reduction) and City of Chino Hills (Chino Hills Parkway)
- B. Consideration of: (1) CEQA Statutory Exemption for LAFCO 3091; and (2) LAFCO 3091 – Reorganization to Include Annexations to and Detachments from City of Chino and City of Chino Hills (Chino Hills Parkway)

A Travel Claim and Visa Justifications for the Executive Officer's expense report, as well as staff reports outlining the staff recommendation for the reconciled payments and other consent items, have been prepared and copies of each is on file in the LAFCO office and are made a part of the record by their reference here. LAFCO 3090 and LAFCO 3091 have been advertised as required by law through publication in *The Sun*, and *Chino Champion*, newspapers of general circulation in the area. In addition, individual mailed notice was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice, pursuant to State law and Commission policy.

Chairman Colven asks if there is anyone present wishing to discuss any of the consent calendar items. There is no one.

Commissioner Cox moves approval of the staff recommendations for the consent calendar, seconded by Commissioner Pearson. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane, Hansberger.

**PRELIMINARY BUDGET REVIEW FOR FISCAL YEAR 2008-09 – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing for the preliminary review of the Budget for Fiscal Year 2008-09. Notice of this hearing has been advertised as required by law through publication in *The Sun*, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments, all Cities/Towns, Independent Special Districts and the County.

(It is noted that Commissioner Mitzelfelt arrives at 9:17 a.m.)

Michael Tuerpe, LAFCO Analyst, present Agenda Item 7A – Proposed Schedule of Fees and Charges. Mr. Tuerpe points out the change in the LAFCO filing fees and states that the current fee schedule for annexations and reorganizations includes fees in three categories: under 20 acres, 20-150 acres and over 150 acres. In reviewing the proposals received over the past few years it was found that the category of 150 acres and above would be better suited as two categories. He says the staff report includes an example where a proposal of 151 acres would be charged the same fee as a proposal of 900

## **MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION HEARING OF APRIL 16, 2008**

acres; however, the larger proposal comes with additional processing costs, so a mechanism of a flat fee plus an acreage fee for those proposals over 275 acres would provide a better mechanism to recoup costs. He notes that San Diego LAFCO uses this mechanism and has found it is a better way to recoup costs for large proposals. He refers to Item A5 – Formation or Consolidation of a Special District and states LAFCO has processed two special district formations in the past two years and staff has determined that the Commission incurred costs above the fee charged at the time. It is proposed to increase that fee to \$10,000. He refers to Item A9 – Request for Extension of Time to Complete Proceedings, which is a new category. He explains that if the Certificate of Completion for a change of organization has not been filed within one year of the Commission's approval, the proposal terminates. He states that the addition of this fee, if a request for extension of time is received, would enable a mechanism to recoup costs for the processing.

Chairman Colven asks if there are questions of the Commission. There are none.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

Commissioner Nuaimi moves approval of the staff recommendation, seconded by Commissioner Pearson. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Hansberger.

### **PRESENTATION OF RESOLUTION OF APPRECIATION TO FORMER COMMISSIONER A.R. "TONY" SEDANO (CONTINUED FROM FEBRUARY 20, 2008)**

Chairman Colven reads and presents the resolution of appreciation to former Commissioner A.R. "Tony" Sedano. Chairman Colven congratulates Mr. Sedano and quotes Grantland Rice as follows:

For when the One Great Scorer comes  
To mark your name,  
It's not whether you won or you lost  
It's how you played the game.

Mr. Sedano thanks the Commission and states he did not realize he had participated in so many things over 10 years. He says this is a very significant day in his life because 52 years ago on this date he joined the United States Marine Corps and has never regretted that decision. He states the Commission has three excellent candidates to select from today and the Commission would not do wrong by selecting any one of them; however, he strongly supports Jim Bagley, who has 10 to 12 years experience on LAFCO and has done an outstanding job in the past. Mr. Sedano states it was his pleasure to serve on LAFCO and Special Districts. He says he has had a fantastic life and thanks the Commission.

### **INTERVIEW AND SELECTION OF PUBLIC MEMBER OF THE COMMISSION**

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

Kathleen Rollings-McDonald, Executive Officer, states Item No. 2 is the interview and selection of the Alternate Public Member of the Commission. She says the Commission's policies and procedures have been followed in order to solicit interested persons for the position. The period for submission of letters of interest was opened on January 22, 2008 and closed on February 22, 2008. She says that during that period of time the Commission received three letters of interest and resumes for the position; one from C. Glenn Wilson from Redlands; one from Sam Racadio from Highland; and one from Jim Bagley from Twentynine Palms. She states that today the Commission will interview Mr. Wilson and Mr. Bagley and says that Mr. Racadio has submitted an e-mail explaining that he had to undergo emergency surgery and would not be available to participate in today's hearing. Mr. Racadio has indicated his continuing interest in being considered for the position of alternate public member and has indicated that his former position of City Manager for the City of Highland gives him a strong background in the issues coming before the Commission. She states that each of the other applicants is given three minutes to present their qualifications before the Commission. The Commission may then interview the applicants and make a selection a member today or defer the selection to the May hearing. She points out that the successful candidate must receive a vote from each of the categories on the Commission, i.e., one vote from a Board of Supervisors member, one vote from a Special Districts member and one vote from a City member, and that the regular public member does not vote in this case.

Chairman Colven calls Mr. Wilson forward. Mr. Wilson states he appreciates the opportunity to submit his application and speak with the Commission. He thanks each member of the Commission for his or her public service and Mr. Sedano for his distinguished service. He states he has spent a long time working in the public sector and believes it is important to be a volunteer in the public sector today, as the rewards for good service are very important. He says his interest in local government started in high school where he was recommended to the Oklahoma Boys State. He says he attended a junior college where he was president of the Phi Theta Kappa Honor Society and president of the Engineers Club. He states he is an professional civil engineer and his primary emphasis is in public works. He says he was a city manager in this area when LAFCO first evolved and he believes LAFCO has changed things for the better. He states that he would like to look into reducing costs for implementation of the requirements of the Commission and for consultants. Mr. Wilson points out that he has technical knowledge and insight that might be very useful to LAFCO. He has both public and private service experience. He states that he has good acquaintance with youth as he has four children and 12 grandchildren; two of his children are engineers and his daughter is in public service, so he can bridge the gap between seniors and youth. He concludes, stating he prides himself on his ability to negotiate, compromise and make a quality decision in the public's interest. He adds that he is pleased to see the quality of the other applicants.

Chairman Colven thanks Mr. Wilson and asks if there are any questions from the Commission. There are none.

Chairman Colven calls Mr. Bagley forward. Mr. Bagley thanks the Commission for the opportunity to speak regarding the opportunity to fill the shoes of Tony Sedano. He states he has had the privilege of serving in the civic arena in many capacities that come before LAFCO. He started his public service career as a water district board member and was a County Planning Commissioner prior to the incorporation of many of the high

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

desert cities, working on General Plan issues for the First District. He states he was a member of the Bureau of Land Management Desert District Advisory Council which administers federal public lands. He states that he has experience with the County, Special Districts, and was elected a city member to LAFCO following the incorporation of Twentynine Palms and saw LAFCO from both sides. He states he is very interested in filling Tony Sedano's shoes, who has been a strong principled rock on the LAFCO board and he admires Tony greatly. He states he is sorry to see Tony retire as it is a great loss to San Bernardino County and LAFCO. He concludes by stating he has an extensive resume and background that would be useful to the Commission and humbly submits his name for consideration.

Chairman Colven thanks Mr. Bagley and asks if there are any questions from the Commission. There are none.

Commissioner McCallon states all of the candidates are eminently qualified; however, the candidate he would like to see appointed to the Commission is not in attendance. He states Mr. Racadio served the City of Highland for 18 years, is familiar with annexations and would bring a different perspective to LAFCO. Commissioner McCallon nominates Sam Racadio for the position. Chairman Colven calls for a second; there being none, the nomination fails.

Chairman Colven asks if there are additional nominations. Commissioner Mitzelfelt nominates Jim Bagley, seconded by Commissioner Cox. Commissioner Mitzelfelt states Mr. Bagley has extensive experience with LAFCO, SANBAG, County Planning Commission, City of Twentynine Palms, and a water district board. He says he has worked with Mr. Bagley for about 15 years and Mr. Bagley was one of the first people he met when he came to San Bernardino County and he has always done a great job in every capacity. He states Mr. Bagley is someone he knows he can work with.

Chairman Colven asks if there are additional nominations. There are none. Commissioner McCallon moves to close the nominations, second by Commissioner Mitzelfelt, and carried.

Commissioner McCallon moves to unanimously select Jim Bagley as the Alternate Public Member, second by Commissioner Mitzelfelt. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Hansberger.

Mr. Bagley is sworn in. Ms. McDonald explains Mr. Bagley may take a place at the dais but cannot vote unless Mr. Pearson abstains. Mr. Bagley takes his place at the dais.

**PRELIMINARY BUDGET REVIEW FOR FISCAL YEAR 2008-09 – APPROVE STAFF  
RECOMMENDATION (continued)**

Ms. McDonald states LAFCO staff has prepared its annual rite of spring which is to open budget discussions and review costs with its constituents. She states that a budget proposal has been presented that addresses and acknowledges the downturn in the economy which is gripping everyone in San Bernardino County. She says efforts are being made to contain costs as much as possible by taking different approaches large

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

and small, such as deferring the purchase of equipment until the next fiscal year and making sure staff report attachments are produced on CDs rather than paper in order to reduce postage and paper costs. She says the budget projects an expenditure increase of one percent; however, the budget includes a general reserve account which represents a minimum of 10 percent of total expenditures. She states that this was a concern during the audit report, so this reserve account has been established at a full 10 percent in this year's budget. She states the budget as presented only anticipates eight proposals for jurisdictional change in the upcoming year. She says this is by far the fewest proposals anticipated in the history of this Commission, so the revenue stream is sorely affected. She states most costs will be transferred to the entities that are obligated to pay for LAFCO's services, including the 24 cities, 51 independent special districts and the County. She says staff requested that the Auditor/Controller provide an apportionment process estimate (Attachment 2 to the staff report), which will apportion net costs to LAFCO's constituents. She states the Commission is asked for a policy decision related to that apportionment, which is to request that the Auditor/Controller use the existing state controller's report that apportions costs at this proposed budget hearing for the final budget on July 1. She explains that many times before the July 1 due date for billing of costs, the state controller issues a new state report. She states the law specifies that the most current report should be used in determining costs, and says there are many instances where the budgeted amount will change after the final budgets are prepared for these entities, including LAFCO's budget. She says staff is asking that, as part of this recommendation, the policy is changed to request that the Auditor/Controller continue to use the State Controller's reports that are used at the time of the proposed budget. She states that the report is slightly different from prior years in that several elements on workload are being considered. She says an effort is being made this year to provide for funding to fulfill the Commission's obligations for the Municipal Service Reviews that must be completed and to provide for the most thorough and expeditious processing of proposals.

With reference to staffing considerations, Ms. McDonald states that an outline of workload and staffing considerations for FY 07-08 is included and a request for merit increases for three of the staff are identified in the budget report. She requests that the Commission review the upgrade of one LAFCO Analyst position to Senior LAFCO Analyst in the career ladder authorized when the staff structure was reviewed. She states that the budget proposes the establishment of that position with a salary range as the equivalent of Range 66 in the County salary structure. She indicates that like positions in Southern California LAFCOs are outlined in the staff report. This position is a mid-range within those salaries. She states that the budget report for the current year expenditures within the 2000 series will exceed total budget appropriation authority because the cost for legal advertising for the County Fire Reorganization hearing went above and beyond forecasts; the cost for legal advertising for the protest hearing alone exceeded \$15,000. However, in the salaries and benefits categories, the budget is under by about \$35,000. She states that relates to anticipating the hiring of two positions at the top tier of the salary schedules and those employees were hired at a lower tier. She requests the transfer of \$10,000 in appropriation authority from the salaries and benefits categories to the 2000 series. She states that for FY 2008-09 the salaries and benefits forecast was prepared without knowing what the County compensation plan for Exempt employees will be, as those negotiations are not completed. She indicates that LAFCO staff salaries and benefits are tied to the County's Exempt compensation plan. She explains that for budget purposes, staff has used a 4 percent salary increase for all

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

categories and staff will return to the Commission once the County Exempt compensation plan is determined. She says the staff report identifies that if the cost of living increases for the County Exempt plan were only three percent, salaries would be reduced by \$6,000. She states budget appropriation for salaries is sufficient. She points out that every 10 years there are 27 pay periods in the year, and this occurs this year; sufficient appropriation has been included for that extra pay period.

She states the workload for next year is remarkable in the lack of anticipated proposal activity. A chart is included in the staff report showing the actual jurisdictional changes and this year's projected eight proposals is the lowest projection ever. She states the emphasis will be on Municipal Service Reviews; however, there is no authority to recover fees for Municipal Service Reviews. She explains that if, during the review process, a sphere of influence amendment is requested, the entity would pay the full LAFCO filing fees. She states there are 41 service reviews that must be completed. She states that the staff report indicates that the forecast for 2009-10 projects higher salaries and benefits because it will include her anticipated retirement in March 2010. The Commission would be obligated to pay for Ms. McDonald's termination benefits at that point. She states the services and supplies budget maintains the existing activities, i.e., the LAFCO website and mapping efforts to assure maps of the districts and cities are available to the general public.

She reports that staff reviewed with the building manager the lease for the Commission's office space which expires in June 2009. She states the building manager has presented an option that allows for expansion of the office to include additional office space. This expansion would increase the space by 260 square feet. She says the building manager is willing to absorb the cost of the remodel, including new carpet and paint, if the Commission extends the lease through June 2013. Staff is recommending the lease extension.

Ms. McDonald asks that the Commission extend the video contract with the City of San Bernardino for recording of the Commission hearings. She says they are played on the local cable stations throughout the valley which gives greater exposure to LAFCO's work.

She says that revenues for the upcoming fiscal year have been identified and staff proposes that more than \$1 million be apportioned to the three responsible categories, the County, the 24 cities, and the 51 districts, apportioning \$350,000 per category, an increase of \$12,000 from \$338,000 last year.

Ms. McDonald concludes and states the report contains information regarding review of the budget line items and it anticipates increases for salaries and benefits, decrease in cost of services and supplies, and a major increase in reserve so that at least 10 percent of expenditures are set aside to accommodate salaries, benefits and other things. She says general and fee revenues total about \$280,000.

She states that staff asks that the recommendations be approved and the policy relating to changing the apportionment process be adopted so that smaller districts are not taken by surprise. She says large agencies would be able to support the change; however, it might be difficult for smaller agencies since they do not have revenue to accommodate a major shift. She asks the Commission to direct that the public hearing for formal

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

adoption of the budget be scheduled for May 21, 2008, and that the Commission direct Ms. McDonald to submit the budget to the county, cities and districts for review.

Chairman Colven asks if there are questions from the Commission. Commissioner Cox asks Ms. McDonald when the cost of living increase would be determined. Ms. McDonald states it is typically finished by May or June, depending on negotiations; however, it has gone as far as September, so there is no way of knowing for certain.

Chairman Colven asks if the addition of office space limits the ability to expand further. Ms. McDonald responds that it does not, but that the building manager has agreed to do the necessary work to expand the office at no additional cost to the Commission providing the lease is extended through 2013.

Commissioner McCallon moves approval of the staff recommendation, seconded by Commissioner Pearson. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Hansberger.

**CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY THE CITY OF BARSTOW FOR WEST BARSTOW ANNEXATION (GENERAL PLAN AMENDMENT GPA #06-08 AND PRE-ZONING ZC#06-10) (SCH NO. 2006091119), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3085; AND (2) LAFCO 3085 - REORGANIZATION TO INCLUDE ANNEXATIONS TO THE CITY OF BARSTOW, ODESSA WATER DISTRICT, BARSTOW FIRE PROTECTION DISTRICT AND DETACHMENT FROM COUNTY SERVICE AREA 70 IMPROVEMENT ZONE S-7 (NO. 07-01-JASPER ROAD) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider LAFCO 3085 - Reorganization to Include Annexations to the City of Barstow, Odessa Water District, Barstow Fire Protection District and Detachment from County Service Area 70 Improvement Zone S-7 (No. 07-01-Jasper Road). Notice of the hearing was advertised as required by law through publication in *The Sun* and *Desert Dispatch*, newspapers of general circulation in the area, pursuant to State law and Commission policy. Individual notice of this hearing was provided to affected and interested agencies and to landowners and registered voters within and surrounding the review area, County departments and those individuals and agencies requesting mailed notice.

Samuel Martinez, LAFCO Analyst, states the area is approximately 144 acres and is located about a mile north of the I-15 and Highway 58 interchange. He states that LAFCO staff expanded this proposal to include detachment of CSA 70 Improvement Zone S-7. CSA 70 Improvement Zone S-7 is a sewerage entity that the County created in the late 1970's originally to provide a sewerage study for the Lenwood and Grandview communities. He states it has evolved through the years to actually provide sewer service for the area through a contract with the City of Barstow. He says the area is generally bordered by Jasper Road on the east, alongside Highway 58, parcel boundaries on the south, both east and south boundaries being the existing city boundaries and is also bordered by parcel boundaries on the west and Agate Road on the north. He states it is staff's position that this reorganization is a logical boundary since it squares off the city's boundaries on Agate Road on the north and the natural extension of Tortoise Road on the west. He states included in Attachment No. 1, is a



## **MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION HEARING OF APRIL 16, 2008**

map for the Barstow Fire Protection District, which indicates that the proposal squares off the boundary on the north side along Agate. It is an easily-identifiable boundary for service delivery. He says there is, however, a boundary issue for the Commission's review with regard to the Commission's directive requiring cities to address islands when requesting approval of a development-related annexation. LAFCO staff reviewed this issue with the City of Barstow early in the process and City staff is fully aware of the directives from the Commission. He states that in 2005 the Commission held a workshop on island policies where it was determined to identify islands within the County. In the City of Barstow, eight substantially surrounded islands were identified, one of which is the 142-acre substantially surrounded island south and west of the current proposal, west of Lenwood Road. He states staff identified this due to its proximity to the proposal before the Commission today. Mr. Martinez points out the substantially surrounded island on the map and states that, in keeping with the Commission's direction, staff has identified the following options for the Commission's consideration:

- Require the initiation of the island annexation as a condition of approval for LAFCO 3085. The imposition of this condition would require that the City initiated the proposal, prior to protest proceedings for LAFCO 3085. The condition language indicates that protest proceedings will be held in abeyance for a period of six months until compliance of this condition of approval is fulfilled. Failure to comply with the condition would terminate LAFCO 3085.
- Determine that the City of Barstow will be required to initiate the island annexation within one year of the approval of LAFCO 3085. In 2001, during the consideration of the City's annexation of the Marine Corps Logistics Base/Nebo, the City requested that proposal not be conditioned on the initiation of the annexation of the "Mojave Manor" island, but rather that they be directed to initiate the proposal. At that time, the City indicated it would comply with the Commission's request within a one-year timeframe, and did so.
- The Commission could determine to override its policy direction and approve the reorganization without the requirement to address the substantially surrounded island.

Mr. Martinez states that staff recommends that the condition of approval to require the City to initiate the substantially surrounded island be adopted. Staff recommends the imposition of the condition of approval in order to begin to address the substantially surrounded island. He states that, with reference to land use, the reorganization area is a mix of developed and primarily vacant land; the developed parcels including a 96-unit apartment complex on one of the southern boundaries and an existing elementary school on the northern parcel. He says the City of Barstow rezoned the reorganization area to Public Facility, Desert Ranchette, Single-Family Residential, Multi-Family Residential, triplex, and Multi-Family Residential, apartments, and Light Industrial. He states these prezone designations reflect the County's existing land use for the area, except for public facility, which has been assigned to the parcel with the existing elementary school and the light industrial, which has been assigned to the southern parcels south of Jasper Road, to reflect or match the railroad which is adjacent to those parcels. These zoning designations are to remain in effect for two years following

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

approval of this annexation unless specific findings are made by the City Council at a noticed public hearing. He states that with respect to service issues, the City of Barstow prepared a plan for service for itself and Odessa Water District. The Barstow Fire Protection District also submitted a plan for service. Mr. Martinez highlights a few of the services to be provided:

Mr. Martinez states the City of Barstow provides sewer collection and treatment within its boundaries. Within the reorganization area, the City of Barstow provides sewer service to the apartment complex through an out-of-agency service agreement approved by the City in 1984. In 2002, LAFCO approved Service Contract 184, which authorized the City to provide sewer service within the boundaries of CSA 70 Improvement Zone S-7, due to problems with a sewage disposal system within the High Desert Estates Mobile Home Park and septic system failures within the Lenwood community. He says the City, through CSA 70 Improvement Zone S-7, has been providing sewer service within the area, so as part of the reorganization process, CSA 70 Improvement Zone S-7 will be detached from the reorganization area and its sewer service will be directly provided by the City.

Mr. Martinez states water service is provided by Golden State Water Company, a private water company regulated by the PUC, and no change is anticipated for that service. He explains that the reorganization includes the annexation to Odessa Water District, a subsidiary district of the City, which was created as a special act water agency authorized to provide water service within its boundaries. It does not currently provide service and was created as reinforcement in case the existing water purveyor is unable to provide service in the future.

He states that, as a condition of approval, County Service Area 40, a district that provides TV translator services on a regional basis, will continue to overlay and serve the area. Fire protection and emergency services are to be provided by the Barstow Fire Protection District and the Fire District has provided a plan for service. He says that, as required by Commission policy and State law, the plan for services provided by the City and the Barstow Fire Protection District indicates that the extension of services will maintain and/or exceed current service through the County.

Mr. Martinez reports on the environmental review and states the City prepared an initial study and mitigated negative declaration for the General Plan amendment and rezoning of the west Barstow annexation region, which is the proposal before the Commission. The City's documents have been reviewed by the Commission's environmental consultant, Tom Dodson and Associates, who has indicated that the documents submitted by the City are adequate for the Commission's use as responsible agency for LAFCO 3085. He states that the actions required to be taken by the Commission are outlined in the staff report.

Mr. Martinez states the reorganization provides for an efficient service boundary for the City and for the Barstow Fire Protection District and the area has been rezoned and planned for land uses that require municipal services. He says that for these reasons and for those outlined in the staff report, staff recommends approval of LAFCO 3085 and that the Commission impose the condition that requires that the City initiate the substantially surrounded island prior to protest proceedings for LAFCO 3085, by taking the following actions:

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

- Standard terms and conditions that include the “hold harmless” clause for potential litigation costs, continuation of fees, charges, assessments, and the identification that the transfer of utility accounts will occur within 90 days of the recording of the Certificate of Completion;
- County Service Area 40 shall continue to overlay and serve the reorganization area; and,
- Protest Proceedings for this reorganization shall be held in abeyance, for a period not to exceed six months. The City of Barstow is required to initiate the annexation of the substantially-surrounded island, identified as the Lenwood Area Annexation located west of Lenwood Road, as shown on the maps within this report during the identified six-month abeyance period. Compliance with this condition shall be deemed fulfilled upon issuance of the Certificate of Filing for the said Lenwood Area Annexation proposal.

Mr. Martinez states that the Commission has been given a letter from the City of Barstow indicating that the City prefers that the Commission override its policy (third option), or, in the alternative, give the City one year to initiate the substantially surrounded annexation (second option), without holding up processing of LAFCO 3085.

Chairman Colven asks if there are questions from the Commission. Chairman Colven asks what the City's position is on the conditions. Mr. Martinez states City staff does not believe there is enough time to initiate the proceedings in advance of the protest hearing. Ms. McDonald explains that the City does not object to the imposition of the condition, but it is a question of timing as this annexation started with the City in 2004, so there is a question regarding equity to the applicant in that the City has not objected, per se, to the imposition of requiring the island, but the timing is difficult.

Commissioner Cox states that Item No. 2 LAFCO Conditions on page 2 of the staff report says that standard terms and conditions include a hold-harmless from litigation. She asks if staff anticipates potential litigation. Mr. Martinez states that litigation is not anticipated, however, that statement is always included.

Commissioner Nuaimi asks what is the condition of the 450-acre piece between the annexation area and the island area. Ms. McDonald states that the residents of the Lenwood community have been surveyed multiple times and this is a remnant of friendly annexations encircling a residential community in existence for many years. She says the entire community is currently provided sewer service by the City of Barstow through the CSA 70 Improvement Zone S-7 contractual arrangement. She adds that another portion existed east of this area that was a totally surrounded island which is referred to as the Mojave Manor. The Commission accepted the commitment of the City of Barstow to annex the totally surrounded island within one year of the approval of another annexation, and the City fulfilled its obligation to the Commission. Commissioner Nuaimi asks if the fire protection district also serves the area to the west of the proposal site. Ms. McDonald states that it does for most of it. He asks if the residences connected to sewer are paying an out-of-area surcharge. Ms. McDonald states it is the same rate plus an administrative fee for the administration of S-7. She says the apartment complex inside the annexation received sewer service prior to the Lenwood area receiving it.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

Chairman Colven opens the public hearing and calls upon those wishing to speak.

Steve Carter, property owner, states he initiated this application for annexation in 2004. He thanks the Commission for the opportunity to speak and states he lives in Las Vegas. He states he has submitted additional material and the City of Barstow submitted a letter signed by the Mayor and City Manager asking that the Commission consider Option 3 and if Option 3 is not acceptable, to consider Option 2. He states a timeline was presented to the Commission indicating that this project started in 2004 and there have been a number of items required for this project. He states his opinion is that the six-month time frame required by Option 1 is almost unattainable. He states he appreciates the professionalism and efforts of LAFCO staff; however, he would object to Option 1. He states that the City complied with all LAFCO requirements required in the 2001 Mojave Manor annexation, and he feels confident that the City will do the same if Option 2 were chosen today. He explains that the reason for the project is to provide affordable housing and asks the Commission to reconsider the recommendation of staff and not choose Option 1, but to choose Option 3 or, in the alternative, Option 2.

Chairman Colven asks if it is possible to extend the six-month deadline in Option 1. Ms. McDonald states that, according to the statute, the conditions of approval have a six-month window so it cannot be amended by law. In order to entertain a longer time period for fulfillment of the requirement, Option 2 should be considered.

Chairman Colven asks if one year is sufficient time for the City to initiate the process. Ms. McDonald states it would be sufficient, and the City has, in fact, fulfilled that commitment in the previous annexation.

Commissioner Mitzelfelt moves approval of LAFCO 3085, including all findings and declarations as presented by staff, including all terms and conditions including adoption of LAFCO Resolution 3000. With regard to the 142 acres to the southwest, immediately west of Lenwood Road, and bisected by Main St., that Option 2, which requires initiation of island annexation within one year of approval of LAFCO 3085 is adopted. Seconded by Commissioner Nuaimi.

Chairman Colven asks if there discussion on the motion. Chairman Colven calls Michael Massimini to speak. Mr. Massimini states he is a planner with the City of Barstow. He commends LAFCO staff and Tom Dodson and states staff has been a tremendous help in processing this application. He explains that Option 2 is acceptable to the City and thanks the Commission for allowing him to speak.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Hansberger.

**PENDING LEGISLATION REPORT**

Ms. McDonald states the CSA Law Rewrite made it out of the Senate with a 36-0 vote with no amendments and it has been sent to the Assembly. She says all other bills are making their way through general committees. The LAFCO Omnibus Bill is moving forward, so next month will include a more precise legislative report.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

Ms. McDonald states that Senate Bill 343 was adopted last year and addresses open meetings and documents. One of the issues identified in this bill has been discussed by CALAFCO Executive Officers and relates to emails between Commissioners regarding applications before LAFCO and whether or not a policy is to be established relating to those emails. She says that she will provide an update next month. She explains this is probably an unintended consequence of SB343 which requires the provision of documents to Commission members.

Ms. McDonald reports on SB1617 which relates to fire protection fees for state responsibility areas and the imposition of a new set of fire structures. She says SRA lands are substantial in this County, especially in the mountain areas, and the imposition of this fee to fund the California Forestry and Fire Protection Department may have impact on San Bernardino County.

Chairman Colven states the subject of emails came up at the Fire Districts Association meeting he attended. A presentation was given by an attorney who said a litigation hold can be placed on every transaction within an agency and it becomes an obligation to produce the emails. He states Chief Dennen was also there and there was discussion about the SRA agencies and a number of fire agencies plan to weigh in on that issue with letters. Commissioner Mitzelfelt asks if the SRA legislation would charge fees to parcels within the SRA areas only. He says there was a previous proposal by the administration that would have been a surcharge on insurance policies. He asks if that is still being considered. Ms. McDonald states she does not believe so, and that her awareness of this bill is only recent; however, one of the issues is that it is another look at the same attempt for funding for the California Forestry and Fire Protection Department based upon land use type. She says she will provide more information next month. Chairman Colven states that there are no facilities of that nature within a reasonable distance and any funds raised should go to local fire suppression activities within the community and that is how many of the letters will be directed. Commissioner Curatalo asks that the briefing on the California Fire and Forestry issue include how it would impact San Bernardino County. Ms. McDonald states there are a number of issues in this county relating to the protection of SRA lands, in that there is a division between the United States Forest Service and California Forestry and Fire Protection Department where they have contracted away the responsibilities. For example, in one portion of the San Bernardino Mountains, SRA lands are protected by the US Forest Service, while the San Gabriel Mountains are protected by the California Forestry and Fire Protection Department, so coverage and protection is more uniform. She states she is unsure how those contractual arrangements will be affected.

**EXECUTIVE OFFICER'S ORAL REPORT**

Ms. McDonald states LAFCO staff is currently conducting the Special Districts selection process for Ms. Cox's position. As reported previously, the Special Districts Selection Committee meeting did not provide a quorum, so the all-mail process is being conducted. She explains the process will be completed on May 5 and there are three candidates. If one of the candidates does not receive a majority, the two top vote-getters will go to the second round of the mailed ballot which takes 30 days, so Ms. Cox will remain in her position until a successor is qualified. She adds that a request was made to the districts to decide whether to forego the actual meeting for Special Districts

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

selection and hold an all-mailed process in order to allow sufficient time to allow for the seating of the candidate at the actual expiration of the term; the votes received so far on this issue are unanimously in favor.

Ms. McDonald reports on future meetings: the May meeting will include the final budget review, a service contract with the City of Redlands, an annexation to the City of Redlands, and the dissolution of the Victorville Fire Protection District, Victorville Park and Recreation District and Victorville Sanitary District. She states it is hoped to have the municipal service review for the Mojave Water Agency. The other services have been pushed back due to mapping issues. She states she hopes to have the municipal service reviews for Barstow and Apple Valley on the June agenda. The June agenda will include an additional annexation to the City of Barstow. She announces she will be on vacation the first week of June. She states the July agenda will include municipal services reviews and staff does not anticipate any proposals ready for consideration in July.

Ms. McDonald announces that the opening meeting for the South Desert municipal service reviews was held April 9 in Yucca Valley and the opening meeting for the Mountain municipal service reviews will be held on April 22.

She states she has been asked to participate by UC Berkeley in a workshop on AB32, regarding implementation of greenhouse gas emission reduction. She says the letter from UC Berkeley indicates that all comments will remain anonymous. LAFCOs from Southern California associated with SCAG have coordinated a meeting with the new SCAG director to review issues and concerns regarding implementation and potential for SB 375, Sustainable Communities.

Commissioner McCallon asks when staff anticipates consideration of the Highland annexation. She states a departmental review committee meeting is scheduled to go over technical issues related to that proposal on May 1, and it could possibly be considered in June or July. She explains the real question is related to the property tax transfer resolutions to be adopted by both cities and the need for introduction of a County resolution.

Chairman Colven asks about the protest hearing for the County Fire Reorganization. Ms. McDonald states it was held on March 26 and Cecilia Lopez-Henderson, Annexation Coordinator for the City of Fontana, was the only member of the audience. The hearing was nine minutes long and there had not been a single official protest filed, so the protest hearing was closed; however, the certificate of completion has not been issued and will not be issued until the conditions of approval have been met and those include multiple obligations for the County and a single obligation for the City of Fontana regarding its service contract for future service. She states that once those conditions are met staff will issue the Certificate of Completion, signaling completion of the greatest effort of this Commission.

**COMMISSIONER COMMENTS**

Commissioner Cox thanked the Commission for its continued support as she seeks reelection to her position. She states it is important to keep geographic diversity; Commissioner Bagley's appointment as the public member alternate brings

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF APRIL 16, 2008**

representation from the eastern desert communities and likewise, the seat that she holds has historically been held by a high desert representative living within the First District. She comments that she and Commissioner Williams appreciate the gender diversity on the Commission. She thanks the Commissioners for contacting the special districts they represent.

Commissioner Nuaimi announces that this Saturday, April 19, at 10:00 a.m. the City of Fontana and San Bernardino County will open the largest library in the regional county library system. He states the Lewis Library and Technology Center, located next to Fontana City Hall, is 93,000 square feet, and Fontana is proud as a community to be able to deliver that resource to the region, not just to the City. He encourages everyone to bring their families to this new library.

Commissioner Colven announces the ski areas in Big Bear are closed for season, but the lake is full and is the economic gem of the valley.

Commissioner Williams states she has a long history of being a major library supporter and congratulates the City of Fontana on its huge accomplishment and says this facility will serve people throughout Southern California.

Commissioner McCallon recognizes that the new library in Fontana is a great facility, and adds that the County will open a new library in the City of Highland in May. He says this facility will also be an environmental learning center. He states it is a beautiful facility and will be a regional asset for students to come and learn about the environment. He announces that it will be named the "Sam Racadio Library."

**COMMENTS FROM THE PUBLIC**

Chairman Colven calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION,  
THE HEARING IS ADJOURNED AT 10:52 A.M.**

**ATTEST:**

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**ANNA M. RAEF**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

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**ROBERT W. COLVEN, Chairman**